

Executive Summary – Enforcement Matter – Case No. 41740

Norit Americas, Inc.

RN102609724

Docket No. 2011-0850-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Marshall Plant, 3200 University Avenue, Marshall, Harrison County

Type of Operation:

Activated carbon manufacturing plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: November 25, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$69,650

Amount Deferred for Expedited Settlement: \$13,930

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$27,860

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$27,860

Name of SEP: Texas PTA – Texas PTA Clean School Buses

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 41740

Norit Americas, Inc.

RN102609724

Docket No. 2011-0850-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: April 15, 2011

Date(s) of NOE(s): April 27, 2011

Violation Information

1. Failed to comply with permitted emission rates and the maximum outlet grain loading limit during a stack test conducted on December 20, 2010 on the Multi-Hearth Furnace No. 2 Feed Bin [Emission Point Number (“EPN”) M2FDBNDCVT]. Specifically, it was determined that the particulate matter (“PM”) emission rate was 0.1069 pound per hour (“lb/hr”), exceeding the maximum allowable hourly emission rate of 0.02 lb/hr; and the outlet grain loading rate was 0.006440 grain per dry standard cubic foot (“gr/dscf”) of PM, exceeding the limit of 0.005 gr/dscf. The emissions from EPN M2FDBNDCVT were 418.19 lbs of PM [30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and Permit Nos. 78421 and PSDTX1183, Special Conditions Nos. 1.A. and 5.C.(1)].

2. Failed to comply with permitted emission rates, maximum outlet grain loading limit, and control efficiencies during a stack test conducted on December 21, 2010 on the Multi-Hearth Furnace No. 2 Stack (EPN MHF2STACK). The emissions from EPN MHF2STACK were 6,609.6 lbs of PM, 9,875.52 lbs of nitrogen oxides (“NOx”), and 9,105.70 lbs of sulfuric acid. The outlet grain loading rate was 0.02850 gr/dscf of PM, exceeding the limit of 0.01 gr/dscf. The control efficiencies for sulfuric acid and hydrogen fluoride were measured to be 49.66% and 40.78%, respectively, and the permitted control efficiency should be 90% or greater [30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and Permit Nos. 78421 and PSDTX1183, Special Conditions Nos. 1.A., 5.C.(1), and 8.E.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require the Respondent to implement and complete a Supplemental Environmental Project (“SEP”). (See SEP Attachment A)
2. The Order will also require the Respondent to:
 - a. Within 30 days:

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- i. Comply with the permitted hourly emission rate and the maximum outlet grain loading rate for PM for EPN M2FDBNDCVT; and
- ii. Comply with the permitted hourly emission rates for PM, sulfuric acid, the maximum outlet grain loading rate for PM, and the required control efficiency of the spray dry absorber for EPN MHF2STACK.
- b. Within 45 days, submit written certification demonstrating compliance with Ordering Provision No. 2.a.;
- c. By April 30, 2012, submit an administratively complete permit application to amend or alter Permit Nos. 78421 and PSDTX1183;
- d. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing;
- e. By May 15, 2012, submit written certification demonstrating compliance with Ordering Provision No. 2.c.;
- f. By June 30, 2012, commence construction for the modification to Multi-Hearth Furnace No. 2 in order to reduce the NOx emissions;
- g. By July 15, 2012, submit written certification demonstrating compliance with Ordering Provision No. 2.f.;
- h. By April 30, 2013, comply with the permitted hourly emission rate for NOx for EPN MHF2STACK; and
- i. By May 15, 2013, submit written certification demonstrating compliance with Ordering Provision No. 2.h.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

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Norit Americas, Inc.

RN102609724

Docket No. 2011-0850-AIR-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Kimberly Morales, Enforcement Division, Enforcement Team 5, MC R-12, (713) 422-8938; Debra Barber, Enforcement Division, MC 219, (512) 239-0412.

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

Respondent: Lee Brown, Plant Manager, Norit Americas, Inc., 3200 University Drive, Marshall, Texas 75670

John Bandy, General Counsel, Norit Americas, Inc., 3200 University Drive, Marshall, Texas 75670

Respondent's Attorney: N/A

Attachment A
Docket Number: 2011-0850-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Norit Americas, Inc.
Penalty Amount:	Fifty-Five Thousand Seven Hundred Twenty Dollars (\$55,720)
SEP Offset Amount:	Twenty-Seven Thousand Eight Hundred Sixty Dollars (\$27,860)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas PTA – <i>Texas PTA Clean School Buses</i>
Location of SEP:	Texas Air Quality Control Region 022 – Shreveport – Texarkana – Tyler

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to **Texas PTA** for the *Texas PTA Clean School Bus Program* as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to reimburse local school districts for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fueled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

Norit Americas, Inc.
Agreed Order - Attachment A

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions from buses by more than 90% below today's level and by reducing hydrocarbons.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Director of Finance
Texas PTA
408 W. 11th Street
Austin, Texas 78701

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

Norit Americas, Inc.
Agreed Order - Attachment A

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES

Assigned
PCW

2-May-2011
2-Jun-2011

Screening

1-Jun-2011

EPA Due

22-Jan-2012

RESPONDENT/FACILITY INFORMATION

Respondent Norit Americas, Inc.
Reg. Ent. Ref. No. RN102609724
Facility/Site Region S-Tyler

Major/Minor Source Major

CASE INFORMATION

Enf./Case ID No. 41740

Docket No. 2011-0850-AIR-E

Media Program(s) Air

Multi-Media

No. of Violations 2

Order Type 1660

Government/Non-Profit No

Enf. Coordinator Kimberly Morales

EC's Team Enforcement Team 5

Admin. Penalty \$ Limit Minimum

\$0

Maximum

\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$35,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

99.0%

Enhancement

Subtotals 2, 3, & 7

\$34,650

Notes

Enhancement for one NOV with same/similar violations, 17 NOVs with dissimilar violations, and three orders with denial of liability.

Culpability

No

0.0%

Enhancement

Subtotal 4

\$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments

Subtotal 5

\$0

Economic Benefit

Total EB Amounts

\$551

Approx. Cost of Compliance

\$10,000

0.0% Enhancement*

*Capped at the Total EB \$ Amount

Subtotal 6

\$0

SUM OF SUBTOTALS 1-7

Final Subtotal

\$69,650

OTHER FACTORS AS JUSTICE MAY REQUIRE

0.0%

Adjustment

\$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

\$69,650

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$69,650

DEFERRAL

20.0%

Reduction

Adjustment

-\$13,930

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$55,720

Screening Date 1-Jun-2011

Docket No. 2011-0850-AIR-E

PCW

Respondent Norit Americas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41740

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102609724

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	17	34%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	3	60%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 99%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one NOV with same/similar violations, 17 NOVs with dissimilar violations, and three orders with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 99%

Screening Date 1-Jun-2011

Docket No. 2011-0850-AIR-E

PCW

Respondent Norit Americas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41740

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102609724

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Tex. Health & Safety Code § 382.085(b), and Permit Nos. 78421 and PSDTX1183, Special Conditions Nos. 1.A. and 5.C.(1)

Violation Description

Failed to comply with permitted emission rates and the maximum outlet grain loading limit during a stack test conducted on December 20, 2010 on the Multi-Hearth Furnace No. 2 Feed Bin [Emission Point Number ("EPN") M2FDBNDCVT]. Specifically, it was determined that the particulate matter ("PM") emission rate was 0.1069 pound per hour ("lb/hr"), exceeding the maximum allowable hourly emission rate of 0.02 lb/hr; and the outlet grain loading rate was 0.006440 grain per dry standard cubic foot ("gr/dscf") of PM, exceeding the limit of 0.005 gr/dscf. The emissions from EPN M2FDBNDCVT were 418.19 lbs of PM.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

163 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

Two quarterly events are recommended from the December 20, 2010 stack test to the June 1, 2011 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$276

Violation Final Penalty Total \$9,950

This violation Final Assessed Penalty (adjusted for limits) \$9,950

Economic Benefit Worksheet

Respondent Norit Americas, Inc.

Case ID No. 41740

Reg. Ent. Reference No. RN102609724

Media Air

Violation No. 1

Percent Interest 5.0

Years of Depreciation 15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	20-Dec-2010	27-Jan-2012	1.10	\$276	n/a	\$276

Notes for DELAYED costs

Estimated cost to demonstrate compliance with permitted emissions rates for EPN M2FDBNDCVT. The Date Required is the date of the stack test. The Final Date is the date that corrective actions are expected to be completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$276

Screening Date 1-Jun-2011

Docket No. 2011-0850-AIR-E

PCW

Respondent Norit Americas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41740

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102609724

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 116.115(c), Tex. Health & Safety Code § 382.085(b), and Permit Nos. 78421 and PSDTX1183, Special Conditions Nos. 1.A., 5.C.(1), and 8.E.

Violation Description

Failed to comply with permitted emission rates, maximum outlet grain loading limit, and control efficiencies during a stack test conducted on December 21, 2010 on the Multi-Hearth Furnace No. 2 Stack (EPN MHF2STACK) as detailed in the attached table. The emissions from EPN MHF2STACK were 6,609.6 lbs of PM, 9,875.52 lbs of nitrogen oxides ("NOx"), and 9,105.70 lbs of sulfuric acid. The outlet grain loading rate was 0.02850 gr/dscf of PM, exceeding the limit of 0.01 gr/dscf. The control efficiencies for sulfuric acid and hydrogen fluoride were measured to be 49.66% and 40.78%, respectively, and the permitted control efficiency should be 90% or greater.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual		x	
Potential			

Percent 50%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 6

162 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$30,000

Six monthly events are recommended from the December 21, 2010 stack test to the June 1, 2011 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	x (mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$30,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$275

Violation Final Penalty Total \$59,700

This violation Final Assessed Penalty (adjusted for limits) \$59,700

Economic Benefit Worksheet

Respondent Norit Americas, Inc.

Case ID No. 41740

Reg. Ent. Reference No. RN102609724

Media Air

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	21-Dec-2010	27-Jan-2012	1.10	\$275	n/a	\$275

Notes for DELAYED costs

Estimated cost to demonstrate compliance with permitted emissions rates for EPN MHF2STACK. The Date Required is the date of the stack test. The Final Date is the date that corrective actions are expected to be completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$275

Attachment to Penalty Calculation Worksheet
 Norit Americas, Inc.
 RN102609724
 Case No. 41740
 Docket No. 2011-0850-AIR-E

Type of Permit Requirement	PM		NOx		Sulfuric Acid		Hydrogen Fluoride	
	Actual	Allowed	Actual	Allowed	Actual	Allowed	Actual	Allowed
Hourly Emission Rate (lbs/hr)	4.34	2.64	23.10	9.10	3.322	0.98	-	-
Outlet Grain Loading Rate (gr/dscf)	0.02850	0.01	-	-	-	-	-	-
Control Efficiency (%)	-	-	-	-	49.66	90	40.78	90

Compliance History

Customer/Respondent/Owner-Operator:	CN600356372	Norit Americas, Inc.	Classification: AVERAGE	Rating: 3.29
Regulated Entity:	RN102609724	MARSHALL PLANT	Classification: AVERAGE	Site Rating: 4.73
ID Number(s):	POLLUTION PREVENTION PLANNING	ID NUMBER		P02060
	WASTEWATER	PERMIT		WQ0000703000
	WASTEWATER	EPA ID		TX0000710
	INDUSTRIAL AND HAZARDOUS WASTE	EPA ID		TXD008050189
	INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)		30101
	AIR NEW SOURCE PERMITS	PERMIT		2265A
	AIR NEW SOURCE PERMITS	PERMIT		3068A
	AIR NEW SOURCE PERMITS	PERMIT		5725A
	AIR NEW SOURCE PERMITS	REGISTRATION		41090
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER		HH0019H
	AIR NEW SOURCE PERMITS	AFS NUM		4820300001
	AIR NEW SOURCE PERMITS	PERMIT		56497
	AIR NEW SOURCE PERMITS	PERMIT		56552
	AIR NEW SOURCE PERMITS	REGISTRATION		72698
	AIR NEW SOURCE PERMITS	REGISTRATION		78103
	AIR NEW SOURCE PERMITS	PERMIT		78421
	AIR NEW SOURCE PERMITS	EPA ID		PSDTX1183
	AIR NEW SOURCE PERMITS	REGISTRATION		89199
	AIR NEW SOURCE PERMITS	REGISTRATION		95581
	AIR OPERATING PERMITS	PERMIT		3335
	AIR OPERATING PERMITS	ACCOUNT NUMBER		HH0019H
	AIR OPERATING PERMITS	PERMIT		3335
	STORMWATER	PERMIT		TXR05K879
	STORMWATER	PERMIT		TXR05V438
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER		HH0019H
Location:	3200 UNIVERSITY AVE, MARSHALL, TX, 75670			
TCEQ Region:	REGION 05 - TYLER			
Date Compliance History Prepared:	May 31, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	May 31, 2006 to May 31, 2011			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Kimberly Morales

Phone: (713) 422-8938

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 06/01/2009

ADMINORDER 2008-1671-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
30 TAC Chapter 122, SubChapter B 122.145(2)(B)
30 TAC Chapter 122, SubChapter B 122.146(1)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: GTC and STC No. 8 OP

Description: Failed to submit annual compliance certifications ("ACCs") and semi-annual deviation reports ("SDRs") since March 29, 2006

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: S.C. No. 3 PA

S.T.C. No. 6 OP

Description: Failed to perform stack sampling for PM on the No. 4 Dryer (Emission Point No. 4DRYDCSTK)

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: S.C. No. 12.D. PA

Description: Failed to maintain records of venturi scrubber liquid flow rate.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(2)(F)
30 TAC Chapter 101, SubChapter F 101.201(b)
30 TAC Chapter 101, SubChapter F 101.201(c)
5C THSC Chapter 382 382.085(b)

Description: Failed to include all individually listed compounds which were known through process knowledge to have exceeded the reportable quantity during the May 22, 2008 emissions event on the initial report, and to submit the final record of the event within 2 weeks after the end of the emissions event. Specifically, the Respondent failed to report emissions of CO and H2S, both of which exceeded their respective reportable quantities, on the initial report. The final report was due on June 5, 2008; how

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: 5725A, Special Condition 1 PA

Description: Failed to prevent unauthorized emissions during an emissions event at Kiln 5 on May 22, 2008. During the event which lasted two hours and 22 minutes, the total unauthorized emissions from the Kiln 5 Emergency Stack were 8,486 pounds ("lbs.") of CO, 213 lbs. of H2S, and 2,000 lbs. of PM. Since the Respondent failed to properly report the emissions event, the affirmative defense could not be met pursuant to 30 TEX. ADMIN. CODE § 101.222(b)(1).

Effective Date: 04/11/2010

ADMINORDER 2009-1722-AIR-E

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(2)(F)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: STC 2F OP

Description: Failure to list all individually listed compounds on the initial notification which were known through process knowledge to have exceeded the reportable quantity during the emissions event. The initial notification for Incident # 118423 only listed carbon monoxide, but the final notification included hydrogen sulfide and particulate matter, both above the reportable quantities.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: STC 2F OP

Description: Failure to submit the final report within two weeks after the end of the emissions event. The emissions event for Incident # 118423 ended on January 5, 2009 and was due to be submitted by January 19, 2009, but the final report was not submitted until March 20, 2009 (60 days after the final was due). 30 TAC 101.201(b) requires that the final report be submitted no later than two weeks after the end of the event.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: SC 1 PERMIT
STC 6 OP

Description: Failure to prevent unauthorized emissions during an emissions event (Incident # 118423) at Kiln 5. Since NORIT failed to properly report the emissions event as described above, the affirmative defense was not met pursuant to 30 TAC 101.222(b)(1). During the event, NORIT released a total of 10,180 pounds of carbon monoxide (CO), a total of 256 pounds of hydrogen sulfide (H2S), and a total of 2,400 pounds of particulate matter (PM) over a 12 hour period.

Effective Date: 08/30/2010

ADMINORDER 2010-0345-AIR-E

Classification: Major

Citation: 30 TAC Chapter 122, SubChapter B 122.121
30 TAC Chapter 122, SubChapter B 122.133(2)
30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter C 122.241(b)
5C THSC Chapter 382 382.054
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Federal Operating Permit No. O-1379 OP

Description: Failure to submit an application for renewal at least six months prior to expiration of a Federal Operating Permit ("FOP") and continued to operate the Plant after the permit expired. Specifically, the Respondent failed to renew FOP No. O-1379 before the permit expiration date of November 17, 2009.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(15)
30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.165(a)(7)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Terms and Conditions OP

Description: Failure to include the Certification by a Responsible Official with the March 1, 2009 through August 31, 2009 deviation report.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	08/28/2006	(484144)
2	08/31/2009	(484812)
3	07/21/2006	(486833)
4	10/18/2006	(516451)
5	09/18/2006	(519824)
6	09/18/2006	(519825)
7	09/18/2006	(519826)
8	09/18/2006	(519827)
9	10/19/2006	(519828)
10	08/28/2006	(530961)

11	02/27/2007	(541949)
12	02/20/2007	(544053)
13	11/17/2006	(544054)
14	12/18/2006	(544055)
15	01/18/2007	(544056)
16	03/20/2007	(574561)
17	04/18/2007	(574562)
18	05/11/2007	(574563)
19	06/14/2007	(574564)
20	07/19/2007	(574565)
21	03/29/2007	(593168)
22	05/03/2007	(593169)
23	07/27/2007	(593170)
24	09/21/2007	(595345)
25	08/20/2007	(601317)
26	09/20/2007	(601318)
27	10/22/2007	(601320)
28	10/02/2007	(607366)
29	01/30/2008	(609743)
30	02/13/2008	(616561)
31	11/14/2007	(619242)
32	12/14/2007	(619243)
33	01/18/2008	(619244)
34	03/10/2008	(638088)
35	02/18/2008	(671746)
36	03/20/2008	(671747)
37	04/11/2008	(671748)
38	05/20/2008	(689672)
39	06/19/2008	(689673)
40	07/08/2008	(689674)
41	05/05/2008	(699422)
42	06/13/2008	(699423)
43	08/29/2008	(700277)

44	10/23/2008	(705425)
45	11/05/2008	(706543)
46	08/19/2008	(710391)
47	09/19/2008	(710392)
48	10/19/2008	(710393)
49	10/27/2008	(720822)
50	01/19/2009	(727246)
51	11/17/2008	(727247)
52	01/19/2009	(727248)
53	02/25/2009	(735639)
54	03/20/2009	(749954)
55	04/13/2009	(749955)
56	04/13/2009	(749956)
57	12/17/2008	(749957)
58	02/06/2009	(758943)
59	06/29/2009	(760301)
60	06/11/2009	(768142)
61	10/13/2009	(777682)
62	10/13/2009	(778676)
63	10/12/2009	(778693)
64	01/11/2010	(787332)
65	02/11/2010	(789871)
66	05/11/2010	(799789)
67	05/20/2010	(802609)
68	02/16/2010	(803982)
69	12/30/2009	(803983)
70	10/20/2009	(803984)
71	11/24/2009	(803985)
72	11/18/2009	(803986)
73	11/18/2009	(803987)
74	12/21/2009	(803988)
75	01/16/2010	(803989)

76	06/23/2010	(827189)
77	12/22/2009	(827778)
78	03/23/2010	(830605)
79	04/17/2010	(830606)
80	05/13/2010	(830607)
81	07/29/2010	(841640)
82	07/23/2010	(841721)
83	07/23/2010	(841751)
84	08/23/2010	(843475)
85	06/17/2010	(846174)
86	09/07/2010	(849995)
87	07/16/2010	(860771)
88	10/04/2010	(865559)
89	08/17/2010	(866736)
90	10/28/2010	(870691)
91	11/01/2010	(872197)
92	09/17/2010	(873807)
93	10/18/2010	(876785)
94	12/13/2010	(881314)
95	10/14/2010	(881414)
96	12/21/2010	(884490)
97	12/21/2010	(884521)
98	01/06/2011	(885774)
99	11/15/2010	(887944)
100	02/08/2011	(894536)
101	12/16/2010	(896137)
102	01/17/2011	(902214)
103	03/23/2011	(907054)
104	02/17/2011	(908990)
105	04/27/2011	(913551)
106	03/14/2011	(916255)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/28/2006 (530961)

CN600356372

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 03/29/2007 (593168) CN600356372
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 03/31/2007 (574562) CN600356372
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/03/2007 (593169) CN600356372
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 07/27/2007 (593170) CN600356372
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 09/21/2007 (595345) CN600356372
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.10(e)
5C THC Chapter 382, SubChapter A 382.014
5C THC Chapter 382, SubChapter A 382.085(b)
Description: Failure to submit a 2006 Emissions Inventory; Category B19 (g)(3)

Date: 10/02/2007 (607366) CN600356372
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 12/31/2007 (619244) CN600356372
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/05/2008 (699422) CN600356372
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 06/13/2008 (699423) CN600356372
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 10/27/2008 (720822) CN600356372
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 02/06/2009 (758943) CN600356372
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 12/22/2009 (827778) CN600356372
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 02/11/2010 (789871) CN600356372
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition No. 2 PA
Special Terms and Conditions No. 6 OP
Description: Failure to maintain opacity below 10 percent at the Packhouse Vacuum (EPN PCKVACDCSK) exhaust.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition No. 9 PA
Special Terms and Conditions No. 6 OP
Description: Failure to maintain a minimum pH level of 6.4 at Kiln 2.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
General Terms and Conditions OP
Special Condition No. 9 PA
Special Terms and Conditions No. 6 OP
Description: Failure to maintain a minimum gallons per minute (GPM) rate of 550 GPM scrubber liquid flow rate at Kiln 2.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition No. 9 PA
Special Terms and Conditions No. 6 OP
Description: Failure to maintain a minimum pH level of 6.4 at Kiln 3.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition No. 9 PA
Special Terms and Conditions No. 6 OP
Description: Failure to maintain a minimum gallons per minute (GPM) rate of 550 GPM scrubber liquid flow rate at Kiln 3.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

General Terms and Conditions OP
Special Condition No. 9 PA
Special Terms and Conditions No. 6 OP
Description: Failure to maintain a minimum pH level of 6.4 at Kiln 4.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition No. 9 PA
Special Terms and Conditions No. 6 OP
Description: Failure to maintain a minimum gallons per minute (GPM) rate of 550 GPM scrubber
liquid flow rate at Kiln 4.
Self Report? NO Classification: Moderate
Citation: Special Condition No. 14A PA
30 TAC Chapter 116, SubChapter B 116.115(a)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Terms and Conditions No. 6 OP
Description: Failure to maintain records for the Multihearth Furnace No. 2.

Date: 05/14/2010 (799789) CN600356372
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)(1)(A)
30 TAC Chapter 335, SubChapter A 335.9(a)(1)(B)
30 TAC Chapter 335, SubChapter A 335.9(a)(1)(C)
30 TAC Chapter 335, SubChapter A 335.9(a)(1)(D)
30 TAC Chapter 335, SubChapter A 335.9(a)(1)(E)
30 TAC Chapter 335, SubChapter A 335.9(a)(1)(F)
30 TAC Chapter 335, SubChapter A 335.9(a)(1)(G)
Description: Failure to keep records of all hazardous waste and industrial solid waste
activities in a format which is retrievable and easy to copy.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)
30 TAC Chapter 335, SubChapter A 335.6(c)(1)
30 TAC Chapter 335, SubChapter A 335.6(c)(2)
30 TAC Chapter 335, SubChapter A 335.6(c)(3)
30 TAC Chapter 335, SubChapter A 335.6(c)(4)
30 TAC Chapter 335, SubChapter A 335.6(c)(5)(A)
30 TAC Chapter 335, SubChapter A 335.6(c)(5)(B)
30 TAC Chapter 335, SubChapter A 335.6(c)(5)(C)
30 TAC Chapter 335, SubChapter A 335.6(c)(5)(D)
Description: Failure to immediately document any changes or additional information with
respect to that originally provided and provide written notification within 90 days
for all municipal hazardous waste streams, industrial solid waste streams and
associated waste management units.
Self Report? NO Classification: Minor
Citation: 40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(c)
Description: Failure to label above ground used oil tanks clearly with the words "Used Oil".
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(3)
30 TAC Chapter 335, SubChapter C 335.69(f)(4)(A)
30 TAC Chapter 335, SubChapter C 335.78(g)(2)
40 CFR Chapter 261, SubChapter I, PT 261, SubPT A 261.5(g)(2)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(3)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(d)(4)
Description: Failure to label a container holding hazardous waste with the words "hazardous
waste" or labeled to identify the containers contents.
Self Report? NO Classification: Minor
Citation: 40 CFR Chapter 273, SubChapter I, PT 273, SubPT B 273.14(c)
Description: Failure to label universal waste with the words "Universal Waste" or other
approved words to identify the contents of the container.

Date: 08/24/2010 (843475) CN600356372
Self Report? NO Classification: Moderate
Citation: TWC Chapter 26 26.121
Description: Failure to prevent the unauthorized discharge of industrial wastewater to waters
of the state.

Date: 08/31/2010 (873807) CN600356372
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

Description: 30 TAC Chapter 305, SubChapter F 305.125(1)
Failure to meet the limit for one or more permit parameter

Date: 10/18/2010 (876785) CN600356372
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

F. Environmental audits.

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
NORIT AMERICAS, INC.
RN102609724**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-0850-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Norit Americas, Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates an activated carbon manufacturing plant at 3200 University Avenue in Marshall, Harrison County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 2, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Sixty-Nine Thousand Six Hundred Fifty Dollars (\$69,650) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Twenty-Seven Thousand Eight

Hundred Sixty Dollars (\$27,860) of the administrative penalty and Thirteen Thousand Nine Hundred Thirty Dollars (\$13,930) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Twenty-Seven Thousand Eight Hundred Sixty Dollars (\$27,860) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to comply with permitted emission rates and the maximum outlet grain loading limit during a stack test conducted on December 20, 2010 on the Multi-Hearth Furnace No. 2 Feed Bin [Emission Point Number ("EPN") M2FDBNDCVT], in violation of 30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and Permit Nos. 78421 and PSDTX1183, Special Conditions Nos. 1.A. and 5.C.(1), as documented during a record review conducted on April 15, 2011. Specifically, it was determined that the particulate matter ("PM") emission rate was 0.1069 pound per hour ("lb/hr"), exceeding the maximum allowable hourly emission rate of 0.02 lb/hr; and the outlet grain loading rate was 0.006440 grain per dry standard cubic foot ("gr/dscf") of PM, exceeding the limit of 0.005 gr/dscf. The emissions from EPN M2FDBNDCVT were 418.19 lbs of PM.

2. Failed to comply with permitted emission rates, maximum outlet grain loading limit, and control efficiencies during a stack test conducted on December 21, 2010 on the Multi-Hearth Furnace No. 2 Stack (EPN MHF2STACK), in violation of 30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), and Permit Nos. 78421 and PSDTX1183, Special Conditions Nos. 1.A., 5.C.(1), and 8.E., as documented during a record review conducted on April 15, 2011 and detailed in the table below. The emissions from EPN MHF2STACK were 6,609.6 lbs of PM, 9,875.52 lbs of nitrogen oxides ("NOx"), and 9,105.70 lbs of sulfuric acid. The outlet grain loading rate was 0.02850 gr/dscf of PM, exceeding the limit of 0.01 gr/dscf. The control efficiencies for sulfuric acid and hydrogen fluoride were measured to be 49.66% and 40.78%, respectively, and the permitted control efficiency should be 90% or greater.

Type of Permit Requirement	PM		NOx		Sulfuric Acid		Hydrogen Fluoride	
	Actual	Allowed	Actual	Allowed	Actual	Allowed	Actual	Allowed
Hourly Emission Rate (lbs/hr)	4.34	2.64	23.10	9.10	3.322	0.98	-	-
Outlet Grain Loading Rate (gr/dscf)	0.02850	0.01	-	-	-	-	-	-
Control Efficiency (%)	-	-	-	-	49.66	90	40.78	90

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Norit Americas, Inc., Docket No. 2011-0850-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Twenty-Seven Thousand Eight Hundred Sixty Dollars (\$27,860) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Comply with the permitted hourly emission rate and the maximum outlet grain loading rate for PM for EPN M2FDBNDCVT in accordance with Permit Nos. 78421 and PSDTX1183; and
 - ii. Comply with the permitted hourly emission rates for PM, sulfuric acid, the maximum outlet grain loading rate for PM, and the required control efficiency of the spray dry absorber for EPN MHF2STACK in accordance with Permit Nos. 78421 and PSDTX1183.
 - b. Within 45 days after the effective date of this Agreed, submit written certification to demonstrate compliance with Ordering Provision No. 3.a., as described in Ordering Provision No. 3.j.;
 - c. By April 30, 2012, submit an administratively complete permit application to amend or alter Permit Nos. 78421 and PSDTX1183 in accordance with 30 TEX. ADMIN. CODE § 116.111 to:

Air Permits Division, MC 162
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
 - d. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing;
 - e. By May 15, 2012, submit written certification to demonstrate compliance with Ordering Provision No. 3.c., as described in Ordering Provision No. 3.j.;
 - f. By June 30, 2012, commence construction for the modification to Multi-Hearth Furnace No. 2 in order to reduce the NOx emissions;

- g. By July 15, 2012, submit written certification to demonstrate compliance with Ordering Provision No. 3.f., as described in Ordering Provision No. 3.j.;
- h. By April 30, 2013, comply with the permitted hourly emission rate for NO_x for EPN MHF2STACK, in accordance with Permit Nos. 78421 and PSDTX1183;
- i. By May 15, 2013, submit written certification to demonstrate compliance with Ordering Provision No. 3.h., as described in Ordering Provision No. 3.j.; and
- j. The written certifications required by Ordering Provision Nos. 3.b., 3.e., 3.g., and 3.i. shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

- 4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
- 5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes

aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

1/11/12

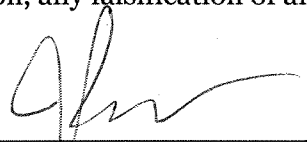
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

29 September 2011

Date

JOHN BANDY

Name (Printed or typed)
Authorized Representative of
Norit Americas, Inc.

General Counsel

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2011-0850-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Norit Americas, Inc.
Penalty Amount:	Fifty-Five Thousand Seven Hundred Twenty Dollars (\$55,720)
SEP Offset Amount:	Twenty-Seven Thousand Eight Hundred Sixty Dollars (\$27,860)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas PTA – <i>Texas PTA Clean School Buses</i>
Location of SEP:	Texas Air Quality Control Region 022 – Shreveport – Texarkana – Tyler

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to **Texas PTA** for the *Texas PTA Clean School Bus Program* as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to reimburse local school districts for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fueled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

Norit Americas, Inc.
Agreed Order - Attachment A

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions from buses by more than 90% below today's level and by reducing hydrocarbons.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Director of Finance
Texas PTA
408 W. 11th Street
Austin, Texas 78701

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

Norit Americas, Inc.
Agreed Order - Attachment A

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.